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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Art Unit: 1645
NEXO, et al.)	Examiner:
Serial No.: 10/519,505)	Washington, D.C.
Filed: December 27, 2004)	January 8, 2007
For: DISEASE RISK ESTIMATING)	Docket No.: NEXO=1
METHOD USING SEQUENCE)	
POLYMORPHISMS IN...)	Confirmation No.: 7629

REQUEST FOR REFUND AND RETROACTIVE WITHDRAWAL
OF SMALL ENTITY STATUS

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

S i r :

1. The transmittal letter, page 2, plainly instructed the RO/US that we were only paying the basic filing, examination and search fees, and the application size fee, adding "At this time no authorization is given to charge any additional fees relating to extra claims, etc."

Our PTO deposit account was nonetheless charged, in June 2005, for additional claims fees, as follows

Date	Fee Code	Amt
6/13	2615	\$200.00
6/13	2616	\$180.00

Fee Code 2615 is for extra total claims, and 2616 for multiple dependency. Under 37 CFR 1.26, we have two years from the date of the deposit account statement to demand refund of these fees, which were charged "by mistake or in excess of that required." This request for refund is therefore timely.

Normally, the correct procedure would be for the PTO to reverse the erroneous charges and issue a "notice to pay additional fees".

Applicants are therefore nominally due a refund of \$380.

2. Applicants established small entity status in good faith. However, Applicants wish to withdraw, retroactively, their assertion because of uncertainty as to whether the assignee Arbejdsmiljøinstituttet (Danish National Institute of Occupational Health) qualifies as a small entity (nonprofit organization) under U.S. law. The small entity status was established in error, and in good faith.

The necessary deficiency payment is itemized below:

<u>Fee</u>	<u>Date Paid</u>	<u>Amount</u>	<u>Current NSE Fee</u>	<u>Balance Due</u>
basic national fee 1.492(a)	12/27/04	\$150	\$300	\$150
search fee 1.492(b) ¹	12/27/04	\$250	\$500	\$250
examination fee 1.492(c)(2)	12/27/04	\$100	\$200	\$100
application size fee 1.492(j)	12/27/04	\$125	\$250	\$125
Total				\$625

3. Applying the refund requested in section 1 as an offset to the deficiency payment due according to section 2, we have a balance due of $\$625 - 380 = \245 .

Credit Card payment form, PTO-2038, authorizing payment in the amount of \$245 is attached.

4. The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of time fee, not covered

¹ While present 1.492(b)(3) allows for a rate of \$400 if the international search report is provided, as it was on December 27, 2004, 37 CFR 1.28(c)(2)(i) requires the payment of the difference between the old NSE and SE fees when a fee decrease occurred in the interim.

The PTO did not receive the following listed item(s) A credit card form for \$ 245

USSN - 10/519,505

by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR Section 1.16 and all patent processing fees under 37 CFR Section 1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue or publication fees under 37 CFR Section 1.18.

5. On even date herewith, Applicants filed a preliminary amendment which eliminated multiple dependency, and calculated and paid the additional claims fees thus due. Hence, it should not be necessary for the PTO to issue a Notice to Pay Additional Fees after processing the request for refund.

Respectfully submitted,

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